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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,051	04/03/2001	Patrice Gombert	109149	9290
25944	7590	04/04/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 09/824,051	Applicant(s) GOMBERT ET AL.	
	Examiner Stephen J. Castellano	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-90 is/are pending in the application.
 4a) Of the above claim(s) 65 and 69-89 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 64, 66-68 and 90 is/are rejected.
 7) ☒ Claim(s) 64 and 66-68 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-63 have been canceled. Claims 64-90 are pending.

Applicant's election with traverse of the Group III: Fig. 6A and 6B, claims 64-68, 74, 76 and 79-90 is acknowledged. The traversal is on the ground(s) that (1) the examiner stated that claim 64 was not restrictable, (2) there is only a deminimus number of species and (3) the restriction is at a late stage of examination. This is not found persuasive because (1) the examiner has clearly stated in the interview that claim 64 is not restrictable and claim 64 was indicated generic and thus not restricted or subject to election of species, (2) there is absolutely no support in the MPEP for a "deminimus" determination or a requirement that a certain number of species need to be claimed before an election of species can be made, and (3) this was examiner's first opportunity to examine these claims.

Re the September 1, 2004 interview, the examiner stands by what was written in the interview summary. The claim (singular, claim 64) would not be restrictable (and has not been restricted). The comment made with respect to the claims (plural), is that, the claims are directed to different invention (aka, restrictable invention). Also, there was no discussion of the merits of each claim presented nor would time permit such close evaluation of all the claims. The claims were not examined. The purpose of the interview was to put at least one examinable, non-restrictable claim before the examiner. This was accomplished with claim 64.

Re the election of species, claims 65, 74, 76 and 79-90 are not directed to the selected specie because the selected specie doesn't include a filter, pump or fuel gauge as stated in claim 65. Please refer to these claims with the "withdrawn" status identifier unless you amend the claims such that they discuss only elements of the elected specie. Furthermore, the elected

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specie doesn't specify any of the materials or laminations stated in claims 80-86. These claims are treated on their merits insofar as the elements of the elected species have been shown.

In summary, claims 65, 69-89 have been withdrawn. Claims 64, 66-68 and 90 are the elected claims.

The disclosure is objected to because of the following informalities: The word "pierce" encompasses a broad meaning of "penetrate." The written disclosure at page 2, line 19, is inaccurate in stating "without any need to pierce" since penetrating the wall is accomplished in every embodiment.

Appropriate correction is required. A more accurate description would state "pierce through" in place of "pierce."

Claims 64-68, 74, 76 and 79-89 are objected to because of the following informalities: The statement that the insert doesn't pierce the wall of the tank is not accurate since the insert penetrates the wall. Appropriate correction is required. A more accurate description would state "pierce through" in place of "pierce."

The claims are treated on their merits insofar as the elements of the elected species have been shown.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 79 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 79 recites the limitation "the parison" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claims 30 and 31 are similarly indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 64-68, 76, 79, 80 and 87-90 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasugai.

Kasugai discloses a fuel tank comprising a wall (entire outside wall 2) of blown thermoplastic material, the wall having a portion in relief (all of the inner, upwardly recessed surface of the upper wall 3) on the inside of the tank, the portion in relief being partially made by a portion of the wall (recessed portion 3a for fuel pump nipple portion 11a) being overmolded on at least one insert (11a) to define a permanent housing (all of the inside, upwardly recessed surface of the upper wall) inside the tank; an attachment (valve 12, pipe 12a or pipe 6d) separate from the insert attached to the portion in relief and at least partially received in the housing, the insert doesn't pierce the wall of the tank.

Re claims 80 and 87-89, the blown thermoplastic wall material of polyethylene, polyamide or the like can be rotomolded or thermoformed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 74 and 81-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasugai.

Kasugai discloses the invention except for the material, laminates and the snap fit. Official notice is taken that snap fits are well known as by a dovetail tongue and groove, detents or similar wall modification. It would have been obvious to modify the wall to have a snap fit wall configuration to provide easy attachment of an auxiliary component. Official notice is taken that the materials and laminates claimed are well known as obvious materials for tank production. It would have been obvious to modify the tank materials and laminates to offer high strength, high or low relative melting point, compatibility with petroleum, a barrier to petroleum or a combination of these attributes.

Applicant's arguments filed October 4, 2004 have been fully considered but they are not persuasive. Applicant suggests a different interpretation of Kasugai than as now set forth by the examiner. Please see the explanation of Kasugai and respond appropriately.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc